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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,145	03/24/2004	Michael Sonnleitner	1056906	2765
28735	7590	11/13/2007	EXAMINER	
OSLER, HOSKIN & HARcourt LLP (BRP) 2100 - 1000 DE LA GAUCHETIERE ST. WEST MONTREAL, H3B4W5 CANADA			PRICE, CRAIG JAMES	
		ART UNIT	PAPER NUMBER	
		3753		
		MAIL DATE	DELIVERY MODE	
		11/13/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/807,145	SONNLEITNER ET AL.
	Examiner	Art Unit
	Craig Price	3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 October 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,4,5,11-13 and 26-30 is/are pending in the application.  
 4a) Of the above claim(s) 2,3,6-10,14 and 15 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,4,5,11-13 and 26-30 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 19 July 2006 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/30/2007 has been entered.

### ***Drawings***

2. The drawings are objected to because 160a is not pointing to the outlet. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1,4,5 and 11 – 13 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The limitation in claim 1, "the piston slides freely...regardless of a fluid pressure...", is inconsistent with the specification. The piston cannot slide freely since there is a dampening effect as disclosed. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,4,11,13 and 26- 28 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Wright et al. (4,974,410).

Regarding claims 1 and 26, Wright et al. disclose the roll-over valve comprising, a valve housing (42) having an inner chamber that defines an axis, an inlet opening (60) disposed in a lateral side of the inner chamber disposed in the valve housing, and a piston (70) slidingly disposed in the inner chamber for movement relative to the valve housing along the axis, the piston having normal and roll-over positions relative to the valve housing, wherein the inlet and outlet openings fluidly connect to each other via the inner chamber when the piston is in the normal position, wherein the piston slides "freely" from its roll-over position to its normal position regardless of a fluid pressure in the inner chamber when the valve rolls into an upright position, and under the force of gravity into an overturned position, and wherein the piston blocks at least one of the inlet and outlet openings to prevent fluid flow through the inner chamber when the piston is in its roll-over position as seen in Figure 2.

Regarding claims 4 and 27, Wright et al. disclose that an air-bleed passage (82) that fluidly connects portions of the inner chamber that are disposed on opposing axial sides of the piston as seen in Figure 2.

Regarding claims 11 and 28, Wright et al. disclose that the inlet opening connects to the inner chamber at a position where any pressure that develops in the inlet opening does not urge the piston into the roll-over position (Col.3, Lns. 46 – 49, states that gravity motivates the valve, therefor pressure does not urge the piston into the roll-over position).

Regarding claim 13, Wright et al. disclose that an upper portion of the piston has a frusto-conical surface (as shown in figure 2, the chamfer at the distal ends of 70).

Regarding claim 30, Wright et al. disclose that the sealing surface cooperates with the lateral side of the valve housing by forming therebetween a sufficiently tight clearance (.001 inches as disclosed in Col.3, Lns. 24-28) to substantially prevent fluid flow therebetween as shown in figure 2.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wright et al. '410 in view of Cryder et al. (3,529,624).

Wright et al. disclose that the air-bleed passage has first and second opposing ends, although is silent to the first end of the air bleed passage fluidly connects to a bottom axial portion of the inner chamber such that the first end aligns with the axis, and wherein the second end fluidly connects to the outlet opening.

Cryder et al. disclose a relief valve which teaches the first end of the air bleed passage fluidly connects to a bottom axial portion of the inner chamber such that the first end aligns with the axis, and wherein the second end fluidly connects to the outlet opening as shown.

It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the air bleed passage of Cryder et al. into the valve of Wright et al. in order to have a more uniform dampening force (i.e., not located on one side which would tend to put the valve in a bind), which would increase the life of the valve.

8. Claims 12 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright et al. '410 in view of Kraakman (3,596,676).

Wright is silent to the outlet opening being disposed at the upper axial end of the inner diameter.

Kraakman discloses a reciprocating valve, which teaches the outlet opening (20) being disposed at the upper axial end of the inner diameter.

It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the outlet of Kraakman into the valve of Wright et al. in order to properly line up with the system connections as designed.

***Response to Arguments***

9. Applicant's arguments with respect to claims 1,4,5,11-13 and 26 – 30 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mito et al (3,770,240), Burgdorf et al. (4,252,141) and Davison (3,517,681) disclose similar valves.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig Price whose telephone number is (571) 272-2712. The examiner can normally be reached on 7AM - 5:30PM Mon-Thurs, Increased flex time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3753

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CP



7 November 2007



JOHN RIVELL  
PRIMARY EXAMINER  
ART UNIT 347